

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**UNITED STATES OF AMERICA**

**Case No. 3:08-cr-175**

**Plaintiff,**

**-v-**

**Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz**

**JEREMY E. LEWIS,**

**Defendant.**

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**ENTRY AND ORDER OVERRULING LEWIS'S OBJECTIONS (Doc. #205) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS REGARDING LEWIS'S "RULE 60(b)(4) MOTION TO VACATE FOR LACK OF SUBJECT MATTER JURISDICTION UNDER ARTICLE III, SECTION 2 OF THE UNITED STATES CONSTITUTION;" ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #204) REGARDING LEWIS'S RULE 60(b)(4) MOTION TO VACATE FOR LACK OF SUBJECT MATTER JURISDICTION UNDER ARTICLE III, SECTION 2 OF THE UNITED STATES CONSTITUTION; DENYING LEWIS'S RULE 60(b)(4) MOTION TO VACATE FOR LACK OF SUBJECT MATTER JURISDICTION UNDER ARTICLE III, SECTION 2 OF THE UNITED STATES CONSTITUTION (Doc. #203) AND, BECAUSE REASONABLE JURISTS WOULD NOT DISAGREE WITH THIS CONCLUSION, DENYING LEWIS A CERTIFICATE OF APPEALABILITY ON THIS MOTION AND CERTIFYING THAT ANY APPEAL WOULD BE OBJECTIVELY FRIVOLOUS**

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This case is before the Court on Defendant Jeremy E. Lewis's ("Lewis's") Rule 60(b)(4) Motion To Vacate for Lack of Subject Matter Jurisdiction Under Article III, Section 2, of the United States Constitution. (Doc. #203.) On April 4, 2014, Magistrate Judge Michael J. Merz entered a Report and Recommendation recommending that this latest Motion (doc. #203) be denied.

The time has run and the United States has not responded to this latest Motion (doc.

#203) made by Lewis. This latest Motion is, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Lewis's Objection to the Magistrate Judge's Report and Recommendations regarding Lewis's Rule 60(b)(4) Motion To Vacate for Lack of Subject Matter Jurisdiction Under Article III, Section 2, of the United States Constitution are not well-taken, and they are hereby **OVERRULED**.

The Magistrate Judge's Report and Recommendations regarding Lewis's Rule 60(b)(4) Motion To Vacate for Lack of Subject Matter Jurisdiction Under Article III, Section 2, of the United States Constitution is adopted with one exception that is not relevant to the ultimate issue. The exception is that the Report and Recommendation regarding Lewis's Rule 60(b)(4) Motion To Vacate for Lack of Subject Matter Jurisdiction Under Article III, Section 2 indicates that a previous Report and Recommendation remains pending. However, there are no previous Report and Recommendations that remain pending.

Lewis's Rule 60(b)(4) Motion To Vacate for Lack of Subject Matter Jurisdiction Under Article III, Section 2, of the United States Constitution (doc. #203) is denied. Further, Lewis is denied any requested Certificate of Appealability of the denial of this Motion and any appeal of this matter would be objectively frivolous.

**DONE** and **ORDERED** in Dayton, Ohio, this Fifth Day of May, 2014.

**s/Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record

Jeremy E. Lewis at his last known address of record